

§ 221.280

the claim and the amount of the debentures issued.

§ 221.280 Waived title objections.

(a) *General provisions.* All of the provisions of §203.389 of this chapter (relating to the waiver by the Commissioner of objections to title) shall apply to mortgages insured under this subpart, with the exception of mortgages involving condominium units.

(b) *Provisions applicable to condominium units.* Where the mortgage involves a condominium unit, the Commissioner shall not object to title by reason of the following matters:

(1) Violations of a restriction based on race, color, or creed, even where such restriction provides for a penalty of reversion or forfeiture of title or a lien for liquidated damage.

(2) Easements for public utilities along one or more of the property lines, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property.

(3) Encroachments on the subject property by improvements on adjoining property, provided such encroachments do not interfere with the use of any improvements on the subject property.

(4) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property.

(5) Customary buildings or use restrictions for breach of which there is no reversion and which have not been violated to a material extent.

SPECIAL PROVISIONS APPLICABLE ONLY TO MORTGAGES INVOLVING CONDOMINIUM UNITS

§ 221.300 Changes in the plan of apartment ownership.

The mortgagee shall notify the Commissioner of any changes in the plan of apartment ownership and in the administration of the property. Such notification shall be given either at the time of the conveyance of the property or at the time of the assignment of the mortgage. Any changes in such plan

24 CFR Ch. II (4-1-00 Edition)

shall require approval by the Commissioner.

§ 221.305 Condition of the multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Commissioner, the family unit and the common areas and facilities (including restricted common areas and facilities) designated for the particular unit shall be undamaged by fire, earthquake, tornado, or boiler explosion, except if the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Commissioner.

(2) With the prior approval of the Commissioner, the property may be conveyed or the mortgage assigned to the Commissioner without repairing the damage. In such instances, the Commissioner shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever is the greater.

(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Commissioner without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions are met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance shall have been later cancelled or renewal shall have been refused by the insuring company.

(3) The mortgagee shall have notified the Commissioner within 30 days (or within such further time as the Commissioner may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were made, but it was unable to obtain fire insurance coverage at reasonably competitive rates and that it will continue its efforts to

Office of Assistant Secretary for Housing, HUD

§ 221.755

obtain adequate fire insurance coverage at competitive rates.

§ 221.310 Assessment of taxes.

When a family unit is conveyed to the Commissioner or a mortgage is assigned to the Commissioner, the unit shall be assessed and subject to assessment for taxes pertaining only to that unit.

§ 221.315 Certificate of tax assessment.

The mortgagee shall certify, as of the date of filing for record of the deed or assignment of the mortgage to the Commissioner, that the family unit is assessed and subject to assessment for taxes pertaining to that unit.

§ 221.320 Certificate or statement of condition.

(a) At the time of the assignment of the mortgage or conveyance of the property to the Commissioner, the mortgagee shall, as of the date of the filing for record of the deed or assignment,

(1) Certify that the conditions of § 221.305(a) have been met; or

(2) Submit a statement describing any such damage that may still exist.

(b) In the absence of evidence to the contrary, the mortgagee's certificate or its statement as to damage shall be accepted by the Commissioner as establishing the condition of the family unit and the common areas and facilities including restricted common areas and facilities designated for the particular unit.

§ 221.325 Cancellation of hazard insurance.

The provisions of § 203.382 of this chapter are incorporated by reference and shall apply to hazard insurance policies carried solely for the family unit.

Subpart C—Eligibility Requirements—Moderate Income Projects

§ 221.501 Eligibility requirements.

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under

section 221 of the National Housing Act (12 U.S.C. 1715l), as amended.

[61 FR 14405, Apr. 1, 1996]

Subpart D—Contract Rights and Obligations—Moderate Income Projects

§ 221.751 Cross-reference.

(a) All of the provisions of subpart B, part 207 of this chapter, covering mortgages insured under section 207 of the National Housing Act, apply with full force and effect to multifamily project mortgages insured under section 221 of the National Housing Act, except the following provisions:

Sec.

207.252 First, second, and third premium.

207.252a Premiums—operating loss loans.

207.259 Insurance benefits.

(b) For the purposes of this subpart, all references in part 207 of this chapter to section 207 of the act shall be construed to refer to section 221 of the Act, and all references to part 207 shall be construed to refer to this subpart.

[36 FR 24587, Dec. 22, 1971, as amended at 37 FR 8663, Apr. 29, 1972; 42 FR 59675, Nov. 18, 1977]

§ 221.753 Termination of mortgage insurance.

In addition to the provisions of § 207.253a, the following requirements apply to certain multifamily mortgages insured under section 221 of the National Housing Act:

(a) For those projects qualifying as eligible low income housing under § 248.201, the contract of insurance may be terminated only as provided in part 248.

(b) For those projects subject to section 250(a) of the National Housing Act, the contract of insurance may be terminated only if the Commissioner determines that the requirements of section 250(a) are met.

[55 FR 38958, Sept. 21, 1990]

§ 221.755 Premiums first, second, third and operating loss loans.

All of the provisions of §§ 207.252 and 207.252a of this chapter, relating to mortgage insurance premiums, apply